

AN ORDINANCE

99177

REAFFIRMING AND DECLARING THAT THE SAN ANTONIO WATER SYSTEM'S AQUIFER STORAGE AND RECOVERY PROJECT ("PROJECT") IS A NECESSARY PUBLIC PROJECT; FURTHER REAFFIRMING AND DECLARING THAT A PUBLIC NECESSITY EXISTS FOR THE ACQUISITION OF PERMANENT EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED PROPERTIES (DESCRIBED BELOW,) BY NEGOTIATION AND/OR CONDEMNATION, IF NECESSARY, FOR PUBLIC IMPROVEMENTS FOR USE AS PART OF THE PROJECT; TO WIT, A PORTION OF THE PROPERTIES LISTED AS FOLLOWS: 2.285 ACRES OUT OF NEW CITY BLOCK 35132, PARCEL P-81, IN BEXAR COUNTY, TEXAS, FOR A PUBLIC PURPOSE AS PART OF THE PROJECT; AUTHORIZING THE SAN ANTONIO WATER SYSTEM (SAWS), ITS EMPLOYEES, AGENTS AND/OR ITS AUTHORIZED INDEPENDENT NEGOTIATORS TO NEGOTIATE AND EXECUTE ALL AGREEMENTS, EASEMENTS AND OTHER NECESSARY DOCUMENTS WITH THE OWNERS OF CERTAIN PRIVATELY OWNED PROPERTIES DESCRIBED ABOVE AND TO TAKE ALL OTHER LAWFUL ACTIONS NECESSARY OR INCIDENTAL TO SURVEY, SPECIFY, CLARIFY, DEFINE AND ACQUIRE THE PERMANENT EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED PROPERTIES AS DESCRIBED ABOVE; FURTHER AUTHORIZING THE GENERAL COUNSEL OF SAWS TO FILE EMINENT DOMAIN PROCEEDINGS, IF NECESSARY, AND PROSECUTE ALL SUCH CONDEMNATION PROCEEDINGS THROUGH CONCLUSION (INCLUDING FINAL JUDGMENT AND ALL NECESSARY APPEALS) FOR THE CONDEMNATION OF THE PERMANENT EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED PROPERTIES AS DESCRIBED ABOVE; APPROVING, RATIFYING AND DECLARING VALID ALL PRIOR ACTS AND PROCEEDINGS DONE OR INITIATED BY ATTORNEYS, AGENTS AND EMPLOYEES OF AND/OR ACTING FOR SAWS TO ACQUIRE SUCH PERMANENT EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED PROPERTIES AS DESCRIBED ABOVE; DECLARING THAT THE CONVEYANCE OF ALL SUCH PERMANENT EASEMENTS IN CERTAIN PRIVATELY OWNED PROPERTIES AS DESCRIBED ABOVE SHALL BE TO THE CITY OF SAN ANTONIO FOR THE USE AND BENEFIT OF SAWS; PROVIDING FOR A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

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WHEREAS, the public health, safety, and best interest of the City of San Antonio and its citizens require the continued construction, operation, and maintenance of potable water, recycled water, and sewer facilities, for the community, and

WHEREAS, it is necessary to construct, operate, and maintain such facility, the Aquifer Storage and Recovery Project ("ASR Project") located upon privately owned land; and

WHEREAS, the City of San Antonio acting by and through representatives of the San Antonio Water System ("SAWS") have been unable to acquire the permanent easement on the tract described in Attachment I attached hereto and incorporated herein for all references; and

WHEREAS, the San Antonio Water System Board of Trustees found, pursuant to Resolution No. 04-167 passed and approved April 20, 2004, that the acquisition of the above referenced easement is necessary for the public health, safety, and best interests of the citizens of City of San Antonio and the surrounding area; and

WHEREAS, The City Council of the City of San Antonio desires to (1) reaffirm and declare that the Aquifer Storage and Recovery Project is a necessary public project; (2) reaffirm and declare that public necessity exists for the acquisition of permanent easement interests across, over, upon, and under certain privately owned real properties as described in Attachment I attached hereto and incorporated herein for all purposes, by negotiation and/or condemnation if necessary for construction of public improvements for use as part of the Aquifer Storage and Recovery Project; (3) authorize SAWS, its employees, agents and/or their independent negotiators to negotiate and execute all agreements, easements, and other necessary documents with the owners of certain privately owned property as described in the referenced Attachment I and to take all other lawful actions necessary or incidental to survey, specify, clarify, define, and acquire the permanent easement interests across, over, upon, and under certain privately owned properties as described in the referenced Attachment I; (4) further authorize SAWS and its attorneys to file eminent domain proceedings, if necessary, and prosecute all such condemnation proceedings through conclusion (including final judgment and all necessary appeals) for the condemnation of the permanent easement interests across, over, upon and under certain privately owned properties as described in the referenced Attachment I; (5) approve, ratify, and declare valid all prior acts and proceedings done or initiated by attorneys, agents, and employees of and/or acting for SAWS to acquire such permanent easement interests across, over, upon, and under certain privately owned properties as described in the referenced Attachment I; and (6) declare that the conveyance of all such permanent easement interests in certain privately owned properties as described in the referenced Attachment I, shall be to the City of San Antonio for the use and benefit of SAWS; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. City Council hereby reaffirms and declares that the San Antonio Water System's (SAWS) Aquifer Storage and Recovery Project is a necessary public interest project.

SECTION 2. It is hereby further reaffirmed and declared that a public necessity exists for the acquisition of these permanent easements interests in certain privately owned properties as described in Attachment I attached hereto and incorporated herein for all purposes, by negotiation and/or condemnation, if necessary, for public improvements for use as part of the Aquifer Storage and Recovery Project.

SECTION 3. The San Antonio Water System (SAWS), acting on behalf of the city of San Antonio, is authorized as follows: (1) SAWS is authorized to acquire permanent easement interests by negotiation and/or condemnation, if necessary, for public improvements for use as a part of the Aquifer Storage and Recovery Project, (2) SAWS, its employees, agents, and/or their independent negotiators are authorized to negotiate and execute all agreements, easements, and other necessary documents with the owners of certain privately owned property as described in the referenced Attachment I and to take all other lawful actions necessary or incidental to survey, specify, clarify, define, and acquire the permanent easement interests across, over upon, and under certain privately owned property as described in the referenced Attachment I; (3) SAWS and its attorneys are authorized to file through conclusion (including final

judgment and all necessary appeals) for the condemnation of the permanent easement interests across, over, upon, and under certain privately owned property as described in the referenced Attachment I; (4) SAWS is authorized to approve, ratify, and declare valid all prior acts and proceedings done or initiated by attorneys, agents, and employees of and/or acting for SAWS to acquire such permanent easement interests across, over, upon, and under certain privately owned property as described in the referenced Attachment I; and (5) SAWS is authorized to declare that the conveyance of all such permanent easement interests in certain privately owned property as described in the referenced Attachment I shall be to the City of San Antonio for the use and benefit of SAWS.

SECTION 4. All prior acts and proceedings done or initiated by attorneys, agents, and employees of and/or acting for the San Antonio Water system to acquire such permanent easement interests are hereby approved and ratified.

SECTION 5. The conveyance of the permanent easements shown and described in Attachment I attached hereto and incorporated herein for all purposes, shall be to the City of San Antonio for the use and benefit of the San Antonio Water System.

SECTION 6. It is officially found, determined, and declared, that the meeting at which this Ordinance is adopted was open to the public, and that public notice of the time, place, and subject matter of the public business to be conducted at such meeting, including this Ordinance, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

SECTION 7. This ordinance shall be effective immediately if it receives eight affirmative votes. Otherwise, it shall be effective on the 23rd day of May, 2004.

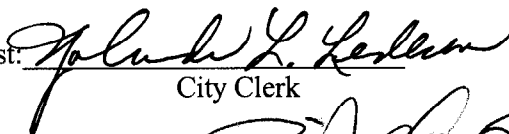
PASSED and APPROVED this 13th day of May, 2004.



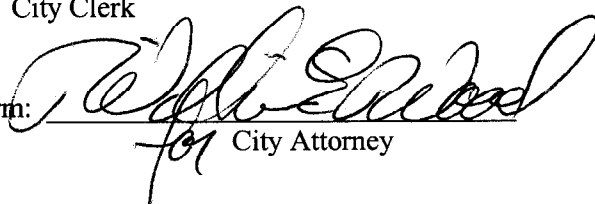
M A Y O R

EDWARD D. GARZA

Attest:


City Clerk

Approved as to form:


for City Attorney